

Civil liability of referees

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Abstract

In recent years organizations review the establishment and development of fungal species have arbitration centers within private organizations around the world are in turn made up of attorneys and Chambers of Commerce and so it goes for some arbitral institutions, they soon will become a very active and famous however, this situation is not true in all of these organizations and some of them exist only on paper due to the low level of activity is summarized, Meanwhile, even some We witness arbitration centers were formed only as a tool for the design of such fraud cases in the criminal courts in some countries this is evidence, Incidence of such issues as the increased number of judgments in the late 70's early 80's was different organizations, including the International Bar Association attempts to set guidelines and code of conduct for judges are obliged to, The Court of Arbitration (ISI. Thirty. Thirty.), The correct response to the accelerator stuck to his objection to the competency of the judges will be required, Admission that the impartiality and independence of judgment in the case and not having much in common with the interests of each party to the dispute and signed the verdict, This commitment has reduced the referee writing battery statistics however, the growth of arbitration organizations and statistical significance of the jury against claims arising problems of civil liability judgment emphasizes that organ extracts however, the growth of arbitration organizations and statistical significance of the jury against claims arising problems of civil liability judgment emphasizes that organ extracts Today, their real credit to this issue in more attention and adherence have to be clear so that Which of the so-called peer review lacks credibility and capacity are sufficient tenure to this with the boundary and incompetence are invalid.

Keywords:

Court of International Arbitration, Arbitration institution, Legal Dispute

Introduction

It appears that the parties to a legal dispute to arbitration as the method of choice to resolve their disputes, domestic or international lead, That the arbitration proceedings are brought in the courts faster than cheaper is confidential and non-formal another advantage of arbitration over litigation in court could be that the arbitration between the parties and the influence of the wider field of action, more or less , Select the person or persons authorized to resolve disputes between the parties, the jury had to choose sides between the main object of desire first, judges are trusted, and trusted him, and the other in terms of expertise in a particular field often judges courts are competent to resolve the dispute. The increasing use of arbitration as an alternative to traditional remedies through the courts has led to a charismatic, The judges as the ultimate decision makers are often important to national and international legal disputes increasingly gain importance and responsibility. However sometimes arises during the arbitration hearing of trust by one party or both to the health and safety of the arbitrator shall be withdrawn, And the judge may hand by carelessness or neglect their duties or the intention to deliberately abuse the authority entrusted to some of these domestic legal systems and institutional arbitration rules, arbitration extracts ways to offset refereeing intentional abuse have predicted so if that turns out to be the beginning of the arbitration process is unfair , By a judge before the verdict was dismissed from his position to if the deal is unfair verdict by the jury resulted in a successful manner the parties can attempt to refute verdict, Meanwhile, gross misconduct, such as fraud or bribery of a judge could put him at risk of criminal responsibility. However the referee dismissed the revocation hearing before the arbitration award or criminal accusations against him could not be satisfied due to the addition or omission of verbs and verb-violent offenses referee is damaged. Provided because the only benefit of this arrangement is that the isolation and exclusion of compensation judges unrighteous judgments of tenure than tenure status, before the referee's hand, It does not replace or repair it with a lawsuit on behalf of the offending judge's obligation to compensate damages to apply and study, Despite the importance of civil liability of judges for this great idea for parties and arbitrators, National legal systems and rules of international arbitration and the arbitration provisions are often indifferent to the past and vague allusions failure to have adequate this paper discusses about the important issues are often neglected in terms of the parties and the arbitrators shall, before addressing the motion of the wheels falling domestic and international arbitration, they should be aware.

1. The doctrine of judicial immunity

The doctrine of judicial immunity from civil liability in terms of civil rights in America, judges can not be guaranteed and their deeds could have done that due to the law and courts of justice against any claim of responsibility for the improper acts of impunity enjoyed the evolution of the doctrine of judicial immunity has been broadly investigated to clarify the true motivation of the development and. (**Grane v. Grane**²¹)

A. U.S. Supreme Court developed the doctrine of judicial immunity in the case of *Bradley v. Fisher*, for the first time the doctrine of judicial immunity from civil liability accepted attorney wants the case to the Supreme Court demanding compensation of Columbia litigation against one of the, And that the right claimed by the judge is the honorarium ban U.S. Supreme Court decision that federal courts can not judge for judicial acts performed, Its authority is being prosecuted in court also stated that the doctrine of judicial immunity (strong roots in the common law) has emphasized, (The principle of universal jurisdiction, which is important primarily in the professional's exact tenure of judicial officers in the performance of their scope of authority assigned to the official shall signal that the consequences of this action for the fear that they will hesitate to do, The court argued that the vote is given to know the judge ignored his actions regarding the independence of the judiciary is essential to the validity or effectiveness of any of the kills, Following the Supreme Court in the trial against Ray Pearson doctrine of state immunity extended to judges. It should be noted that immunity was not limited to state and federal judges and U.S. courts have expanded it to other actors in the legal profession, Yasly trial against Supreme Court gap in immunity to prosecutors and federal and state prosecutors file extended to the case of while federal investigators and prosecutors evidence immunity courts also operator representatives with similar responsibilities have been transferred to prosecutors(**Donnelly Construction**,56:2010).

B. Judicial immunity in the trial of *Bradley v. Fisher*, the Supreme Court will set the conditions for the enjoyment of immunity According to the verdict in this case because the judge can not perform any judicial function of a civil trial blamed, Unless the act clearly outside the scope of the authority and jurisdiction of the judge is the subject of dispute Validity the immunity rule, (**Grane v. Grane**⁶⁵) even with the intent to abuse or corruption claims the judge not confounding, The reason is that the deliberation and searching out the motives and actions of Judge Davy is considered a threat to the independence of judges, The U.S. Supreme Court issued a long time to determine and declare which of the actions of the judge's judicial acts as, And therefore entitled to qualified immunity is in fact using the above principle, almost all verbs and actions to the judge, was placed under judicial immunity, Acceptance of the theory of absolute judicial immunity, but actually that was the successful prosecution of judges for any abuse or violation of their official duties in implementing the trial impossible to be the Supreme Court most recently(*Sypym Kansyvmrz Union v. Kurt Vyry Jynya Astytz*). Between legal, judicial and executive duties, a judge will consider separately. And ordered that the sentence imposed is not entitled to absolute immunity from, And protection measures, which is unique in this case is made in good faith, Fovrstv case against Wyeth, which demands that the observer mission was suspended punishment of children, Behavior due to gender discrimination claim against the judge who issued the warrant its contentious plan supreme Court further explained his position (**Donnelly Construction**,78:2010)judicial magistrate stated that the legal and administrative duties and law enforcement that they are often referred to judiciary. Are quite different to each other), the Court argued that absolute immunity strong and sharp judgment is defensible only if it is administered Effectively fulfill their obligations to the risk of serious Stunt legal experts and judges ruled that the administrative authority officials have limited the immunity.

C. Motives underlying the doctrine of judicial immunity is essentially based on two main reasons: one to support the trial judge and the parties, and the other protecting the judicial settlement.

1.1. The trial judge and the parties supporting the argument that the judge advocate's immunity another argument regarding the safety and supporting parties were mixed together and intermixed both of these arguments have led to the adoption of detrimental effects on civil liability for the judge would be : First of all, afraid of committed and qualified individuals to accept responsibility for judicial positions will be open. Secondly, even if the individuals concerned are interested in joining the judicial service open to all persons living unsatisfied judgment against them in the trial of losses to the plan, This factor in itself independent and impartial judges will consider the claims of the dissidents led by wasting precious time to defend the claims of the judges will be detailed and costly. Thus, the doctrine of judicial immunity is not only interests but also the interests of judges and the independence of judges and the parties acting out of fear of the consequences of their decisions and to ensure it is secure.

2.1 Arguing that the court shall protect and preserve the judicial settlement is the guarantee of judicial immunity ,

Therefore, based on the necessary claims and damages against judges should be prohibited in order to protect the health research and health care trends. History shows that the doctrine of judicial immunity because the theory was developed in the research system as well as the sentences keep protests, And in this way claims through the court system to block several steps in order to correct errors, And the uncertainty of the ultimate validity of the trial court to ensure votes, In other words, the immunity would impede the demand to numerous requests compensation claims against Judge handler in the original trial judge in a civil liability case brought to trial Relying on this record of impunity that the only effective way to appeal to the U.S. Supreme Court's use of judicial misconduct retrial knows how wonderful , And argues that there is some underlying processing of judicial guarantees error correction capability, such as legal research stage to keep the judge from political influence and nature of their claims are resolved efficiently intentional abuse and violations of judicial control and supports their rights , How great the need to resort to trial and thus loss plan projects losses against the trial judge reduced the Criticized the American doctrine of absolute judicial immunity, judicial immunity doctrine in recent years by some scholars and judges have been growing criticism of the criticism has centered the willingness of courts to protect their judicial independence from the other two aspects of public order It is the responsibility of the judiciary relationship will open. These two aspects are:

A) Compensation expense of victims of judicial misconduct .

B) Critics of judicial misconduct to prevent the establishment of a framework that allows judges to minimize violations of civil liability policies provide them considered necessary in order to better balance the three aspects mentioned above should be given attention.(**Fong v.**21:2002)

3 . National policy encourages arbitration as was explained in a judgment of the United States as an alternative mechanism has been supported by the courts to resolve federal policy, especially because of the final and irrevocable settlement of disputes by the parties elect judges to defend It expresses the value of the density of the judicial system to resolve the problem, takes judicial records . Critical role in the process of assigning referees rights and justice requires that his motivation for playing this role to be and accept responsibility for civil jury trials the jury's judgment not only encourages, but does not have an adverse effect and deterrent . Dream face the threat of civil liability, the jury's reluctance to accept the judgment of the doubt and give them incentives for voluntary participation in the disputes between the parties to resolve disputes without conflict are and shall bear the burden of defending a lawsuit and to provide and maintain a collection of Eligibility wish to be judged by appointment) provides that the jury should be protected under the umbrella.(**Wilder v. Crook.**56:2008).

2 .3. Judge immunity from responsibility to judge the validity of the other arguments raised in the confirmation strengthens immunity, arbitral immunity following discussion is presented that the arbitrator immunity from civil liability to maintain the accuracy and integrity of the arbitration process and enhances , The argument in the case of (blindness stack against the New York Exchange) and (Fong v. American Arlaynzaynk) and recently in the trial (Stern against Chicago without Pshnz D) Exchange now) has been in all three cases the court learned that the Federal Arbitration Act governs the material after the first (**Fong v.**45:2002)cases were discussed actions, This argument is based on three possible appeal to the Court of Appeals opinion issued by the legal counsel for any legal need to take any action against the other while the judge left and thus the three votes on health and judgment necessary to apply the doctrine of immunity has been emphasized the thinking behind the ideas of the text can be understood as follows Fong verdict on the case:

(Health and safety of the arbitration process will be provided to more efficiently the judges as independent decision makers know that any assignment to defend themselves in court is over), Arguments against extending the doctrine of judicial immunity to arbitrators, although it is possible to imagine many commonalities between referees and judges nevertheless, the judge and jury on the one hand and between judicial and arbitration Procedure The main distinguishing features are these differences extend absolute immunity to judges in conflict or inconsistent with it.(**Wilder v. Crook.**45:2008)

2.3.1. First, regardless of the judgment of judges and juries to distinguish between funds due to regulatory requirements or enforcement of arbitral tribunal appointed arbitrators, unlike judges rule and legislators are elected by public opinion or not the concluded contract between the parties are selected by judges authority of law and while the jury's authority derives from the Federal Court of Appeal in the case (A. Thirty. Ernst v. Manhattan Company Knstrakshn Vtkzas), The arbitrator interpreted the contract has begotten as a private mediator to handle the economic relations while the judge is a government official to resolve social conflicts The jury fees to the parties that are directly responsible for specific tasks are But the coffers pay the salaries of judges and of their

responsibilities to the state, Secondly, most of the judges are chosen in order to eliminate differences of knowledge and technical information is the subject of dispute, Thus, the referee initially awarded the contract to provide professional and technical services between the parties can be and therefore he expected all the care and precautions expected of a professional person for your client application and the skills and knowledge that are generally professional contract, he will have the advantage. Third, The referee controls the political forces that are applied to judges this means that since the tenure of judicial misconduct is partly under the control law and to prevent the possibility of resorting to protests and other disciplinary measures and police are anticipated the way to deal with fraud The referee typically not available. Consequently, we plan losses against the trial The referee considered the offender only guarantee effective against him.

4. Shape differences between judicial and arbitration procedure arbitration, Shape differences between arbitration law and arbitration law grounds of judicial immunity, This guarantees the existence of some form of the procedure and the need to keep judges from political pressures Respect for precedent and respect for the nature of the error correction capability trial and appeal rights of the parties in court will ensure against fraud Maturity of judgment, while granting immunity to judges courts that many of these features can be explained by the eye does not, It certainly explains the organization of judges referees are more vulnerable to external pressures. Since this is due to the limited time that they are selected by the parties dispute. Arbitration hearing is not open to the assignment of judges do not follow the law Judges and judicial procedures do not vote for them, do not be documented and justified only under certain conditions may be revised Because of the inherent lack of maturity of the special judicial guarantees It can be argued that the judge hearing the judicial counterpart to accept is much blow and that the jury committed misconduct have more loopholes, The argument for immunity _ at least not completely and one hundred percent benefit is considered However, the U.S. courts have stated their opinion that the voluntary use of arbitration as a mechanism for resolving disputes nature and ability to review arbitration provisions, Sufficient to justify a judgment for safety guarantees are the.

D) Conventional view that the jury charge Statutory rights countries compared with the United States law by the judge as a substitute for justice through courts should be encouraged under the, Limited reference to arbitration and domestic legal issues leverage more control over the flow of judgments from national courts to apply attitude of the courts and the legislature by law function with a different jury. And the Judges in this country are like their U.S. counterparts in charge of judge's activities. But their powers are limited and primarily as experts and other specialists who provide professional services to compensate for losses due to acts of misconduct and their detrimental under conditions of employment contracts signed an agreement with the other party are the responsibility of the jury to view the contract, for example, in Article 584 (2) of the Austrian Code of Civil Procedure is reflected.

5. Some of the arbitral immunity

And the immunity of arbitral tribunals on behalf of the reasons outlined in the approved doctrine of judicial immunity Inspired by the common law theory to justify the immunity of judges and the emphasis is cited However the fact that quasi-judicial immunity minded jury view of *jus cogen* public order, allowing us to enjoy Element of judgment about the conditions and rules of inference of immunity to this section is devoted to a discussion of the conditions and requirements arbitral immunity and reveals the extent to which this dependence is associated with immunity The most important prerequisite requirements arbitral immunity and the immunity clause is judged The person claiming immunity as a judge actually does perform the task A significant number of cases in American courts with judges like jury and non-jury resolution of problems faced and the solutions are finally The courts also have the benefit of knowing a person's immunity should really be the judge Previous condition and contractual basis for the arbitral immunity have drawn and explained.

5 . 1 Distinction between expert judges so happened that those professionals such as designers, evaluators and mediators were requested the resolution of disputes arising between the parties to take action and then the person against whom a civil liability trial designs have In such cases, the question arises: It is true that these professionals to perform the duties of a judge But it seems to have been chosen by the parties as a judge formally dispute as to whether the real judges have immunity? In rare cases arises as to who the parties are and the name of the arbitrator appointed but the tasks for which they have been referred to arbitration fundamentally can not be considered as an activity Here the question arises whether such persons shall enjoy the privileges of immunity for judges? It must be said that the only people qualified as a referee between the parties sometimes referred, And demand that they do jury duty itself does not transfer the benefits of the arbitral immunity these experts will not only be of limited immunity judges enjoy similar tasks that judges play in arbitration proceedings do, American courts and judges

believe that people who like to issue a binding legal decision about the subject of contentious disputes between the parties have been elected as an independent judicial authority the courts in order to judge whether a person is qualified as an overnight and therefore entitled to the benefit of the immunity or not, only a few have taken the position that: Judicial or arbitral immunity can not be experts in the legal settlement of a dispute marginal effects and extended play Logically, we can say that the U.S. courts have shown a tendency to the general trend established immunity restrict current and new immunities from here to avoid this position is based on the understanding opposed the adoption process requires not only a violation of social boundaries and the philosophy is flawed The support and development of the institution of arbitration is judges ideal for routine immunization is limited but we try to compensate for losses and damages caused by the improper and error repair is successful , There is conflict and antagonism). The next section of the paper is devoted to a discussion of arbitral immunity extended to architects and engineers mediators, First. Architects and engineers: it is seen that the architects and engineers to apply their professional knowledge and expertise is the settlement of disputes between employers and contractors are responsible joins. Issues in this context is referred to these professionals this is verified as being acceptable standard and materials and perform the operation or interpretation of drawings and specifications interesting after performing its duty of these professionals are frequently exposed to legal claims arising from the losing parties have been Cabriolet and files Wilder v.(City of Durham Ave Rydsyl inches Ytyryng against company) The trial court ruled that the engineer responsible for a quasi-judicial role of the trial judge of the respondents, and the loss shall be exempt from against the on posed.

6. Referee abuse of office

Judge's failure to disclose conflicts of interest: domestic law and international arbitration rules for jury duty is generally considered If you find that conflicts of interest of one of the parties refuses to accept the judgment and declared itself incompetent to, Imagine having the benefits of arbitration in conflict with one of the parties aware it does not disclosed. Also suppose that the arbitration hearing over the matter of a long and costly dispute underway and the verdict of the jury in silence to reveal their interest in the claim has been infringed, In this case, the judgment of the Parties shall remain inconclusive everything to start from scratch But if you judge a contractual duty to disclose the fact that the operation had , Neutral arbitrator in another arbitration would have no adverse consequences of such flows, The current plan is to be asked to leave the area or guaranteed by the referee will face? In answer to some legal writers are of the opinion that in such cases the jury should not have received any remuneration, And besides the obvious and blatant conflict of interest is arbitrator shall be liable to compensate all those costs if the parties did not disclose his relationship with a in confirmation of this view, a strong argument can be invoked the referee do not reveal their relationship in itself is not a judicial act, Administrative action is not taken before the arbitration hearing,(**Krysshyn Mnynjr**,34:2005) and therefore should not be subject to protection in most cases that have been investigated in connection with this matter, (Have LG Air Kwaynk etched against Rapystan Kvrpvrysh) seems to confirm the view that U.S. courts do not (Have LG Air Kwaynk etched against Rapystan Kvrpvrysh) seems to confirm the view that U.S. courts do not In these cases, however, the trial judge due to lack of proof of violation of Tally with his relationship with one of the parties said the verdict violated, But the majority of the Supreme Court of Minnesota next request rejected the claim for losses and damages immunity from civil liability to the Council and he that occupational exposure or probable relationship between the arbitrator and one party has also spread. Mentioned the recent verdict of the jury and votes like it will probably have a negative effect on, It is the opinion of the efforts to formulate a code of professional conduct for judges to be neutral, Other hand, the policy of non-judicial redress of violations of such ordinances vary referee despite the desire to encourage the development of arbitration Demonstrated they are also corrupt the Tally, Hesitation and reluctance legal disputes which the parties will refer the dispute to arbitration. Premature withdrawal of the arbitrator shall (**Krysshyn Mnynjr**,65:2005)judge: Once the individual arbitration in dispute was an implicit commitment to the arbitration hearing shall hold office until the judgment so fair by the end of the arbitration by a single failure to deliver or failure to attend jury. Not only did the assignment judge actions , But also will make the ultimate aim of resorting to arbitration, which certainly overcome differences through arbitration verdict is not reached it's the lack of any provision for substitution of judge, After the start of arbitration arbitration process that usually spend a lot of time and money has been launched by the parties, And infertility remains inconclusive result of the unfavorable situation and restart the job again bear the cost of the arbitration fees and costs of the new sides referees a premature withdrawal from his or her refusal to participate in the arbitration proceedings constitutes a breach of the contractual duty of the district is a certainly can not mean a legal action, such action shall be entitled to immunity as

a judge's refusal to implement the right Result of which the parties the opportunity to vote against the view that the courts guarantee that such immunity is justified and judgment are denied. Therefore, if the arbitrator fails to act with reasonable justification should be considered responsible for damages caused by its abuse Otherwise, the special referee because the referee can elect one party, Easily and as soon as he felt that the interests of justice will continue to investigate ways to block, The arbitration agreement or the arbitration rules governing the procedure of arbitration tribunals are obliged by law governing the contract between the two sets of rules to determine:

- A) the judge's residence.
- B) B) holding the seat of the arbitration.

The referee has the clear advantage of the residence law more likely to elect judges from civil liability standards applicable in their respective countries is knowledge; But if the jury referees from different countries are members of this benefit is negative, Unjustified discrimination against the claims set forth in their agreement that the referees heavier the responsibility of judges is expected , will lead, The score is determined by the law of the arbitral seat and taking the easier it is for the court. However, Enforcement of the law may also be potential problems in the implementation of the financial penalty claim by one party against the delinquent referees create, It may sometimes not guilty verdict in a country crushed by the referee, This means that the most likely place where the property is conceivable to have judges, To implement. For example, it is possible fiscal decree issued by a court of law by the courts against the United States by a U.S. judge not to enforce if the arbitrator acceptable to defend the exemption and immunity from civil liability in court issued by a competent court of the United States has plans in place to prevent the public order, Reference selection plan is essentially a trial court judge in civil liability against a possible reference: Judge's residence or place where the arbitration is held to select one of the following two factors affecting these two reference First, the court return layers that good law is being implemented by the whether the injunction issued by this Court and other favorable place in the reference assets in order to collect sentencing judge to be applicable? Distance is wrong to say that the judge's residence as determined and selected by reference into maturity, Guilty verdict in terms of performance and security will not be a problem. It is recommended that the parties attempt to insert a reference material selection shall govern the arbitration agreement, the court determined that the reference assignment although normally very likely that the interest arbitrator is contrary to the interests of, Choose any of the two references to the power of negotiation and bargaining power ultimately will depend on the parties and the arbitrator, But as soon goes beyond the judgment of the internal boundary are interwoven with the international aspects of the problems previously mentioned what likely would furthermore the parties attempt to unduly influence the jury for the trial scheme referee correctly judged the threat of civil liability against him under the law of the seat of arbitration by a separate problem the judges are increasingly exposed improper disposal of these pressures and deal only with the consolidation and establishment of a comprehensive model A. active judges on civil liability, To date, the Convention relating to the major international arbitration rules governing domestic arbitration, new dimensions and aspects of international commercial arbitration, And conduct guidelines of the International Committee of the shape and form of such a model is unable to despite some recent improvements involving organizations such as the American Arbitration Association or the London Court of International Arbitration to resolve the problem of civil liability of judges to have the procedure good results in terms of civil liability and referees are missing. The introduction of a code of conduct adopted by the International Bar Association in 1987 to establish international standards for civil liability of judges for international integration, the proposed regulation is as follows: Except in cases of willful neglect or non-conservative heavy than Essentially referees should any contentious legal duties to protect domestic laws and are considered absolved from responsibility although the formula is certainly represented a step in the right direction clear and reasonable standards governing international arbitration, civil liability is adjusted as follows: Except in cases of willful misconduct or gross contract tasks during the international jury trial of any civil liability must be considered safe and absolve should also be noted that the responsibility for violations of such early termination or cancellation of the arbitration and the arbitration award may result judge wrong in seeking votes for her in any way responsible for it's not a mistake unless the underlying gross disregard for the regulations governing the referee was.

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